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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,072	02/02/2001	Peter Czerney	GK-JEN-2074/500347-20059	9695

26418            7590            01/15/2003

REED SMITH, LLP  
ATTN: PATENT RECORDS DEPARTMENT  
599 LEXINGTON AVENUE, 29TH FLOOR  
NEW YORK, NY 10022-7650

EXAMINER

WRIGHT, SONYA N

ART UNIT

PAPER NUMBER

1626

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/700,072	CZERNEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sonya Wright	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_ .

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

  4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) 1-13 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

Claims 1-13 are pending in this application. Applicant's election without traverse of Group V, claims 12-13, in Paper No. 9 filed 10-23-02 is acknowledged.

In view of the vastness of the claimed subject matter, additional restriction of the claims is required.

### ***Election/Restrictions***

Group I claims 12 and 13, drawn to a method for qualitative or quantitative determination of proteins, classified in class 530 subclass 350+.

Group II claims 12 and 13, drawn to a method for qualitative or quantitative determination of nucleic acids classified in class 536 subclass 22.1+.

Group III claims 12 and 13, drawn to a method for qualitative or quantitative determination of oligomers classified in class 585 subclass 17+.

Group IV claims 12 and 13, drawn to a method for qualitative or quantitative determination of DNA classified in class 536 and subclass 23.1+.

Group V claims 12 and 13, drawn to a method for qualitative or quantitative determination of RNA classified in class 536 and subclass 25.1+.

Group VI claims 12 and 13, drawn to a method for qualitative or quantitative determination of biological cells classified in class 536 and various subclasses.

Group VII claims 12 and 13, drawn to a method for qualitative or quantitative determination of lipids classified in class 436 and subclass 71+.

Group VIII claims 12 and 13, drawn to a method for qualitative or quantitative determination of polymers or polymer particles classified in class 530 and subclass 300+.

Group IX claims 12 and 13, drawn to a method for qualitative or quantitative determination of drugs classified in classes 546, 548 and various subclasses.

In accordance with 37 CFR 1.499, Applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. The claims herein lack unity of invention under PCT Rule 13.1 and 13.2 since the compounds defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art. The claims contain a method for qualitative or quantitative determination of proteins, nucleic acids, oligomers, DNA, RNA, biological cells, lipids, polymers, drugs or polymer particles which does not define a contribution over the prior art. The materials which can be determined in claims 12 and 13 vary extensively. When the materials in claims 12 and 13 are taken as a whole, the claims read on many vastly different methods of use. Accordingly, unity of invention is considered to be lacking a restriction of the invention in accordance with the rules of unity of invention is considered to be proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonya Wright, whose telephone number is (703) 308-4539. The examiner can normally be reached on Monday-Friday from 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308-4537. The Unofficial fax phone number for this Group is (703) 308-7922. The Official fax phone numbers for this Group are (703) 308-4556 or 305-3592.

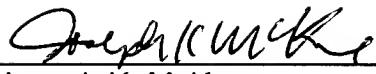
When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-1235.

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Art Unit: 1626

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Joseph K. McKane

Supervisory Patent Examiner  
Group 1600

Sonya Wright

January 3, 2003